

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
	)	
Fleming Companies, Inc., et al.	)	Case No. 03-10945 (MFW)
	)	(Jointly Administered)
Debtors.	)	
	)	

**NOTICE OF APPEAL OF FOOD MARKETING GROUP, INC.**

Pursuant to 28 U.S.C. § 158(a), Food Marketing Group, Inc. appeals the Order dated October 19, 2005 granting the Cross-Motion of the Post-Confirmation Trust for Declaratory Relief (Docket No. 11930) entered by the United States Bankruptcy Court for the District of Delaware, Chief Judge Mary F. Walrath, a copy of which is attached hereto as Exhibit A.

The names of all the parties to the judgment, order or decree appealed from and the names, addresses and telephone numbers of their respective attorneys are as follows:

PARTY	ATTORNEYS
Reclamation Creditors' Trust	<p>Steven K. Kortanek Michael W. Yurkewicz Klehr, Harrison, Harvey, Branzburg &amp; Ellers LLP 919 Market Street, Suite 1000 Wilmington, Delaware 19801 Telephone: (302) 552-5503</p> <p>Janice L. Duban DLA Piper Rudnick Gray Cary US LLP 203 N. LaSalle Street, Suite 1900 Chicago, IL 60601 Telephone: (312) 368-7097</p> <p>Mark J. Friedman DLA Piper Rudnick Gray Cary US LLP 6225 Smith Avenue Baltimore, MD 21209 Telephone: (410) 580-4153</p> <p>Daniel J. Carrigan DLA Piper Rudnick Gray Cary US LLP 1200 19th Street, N.W. Washington, DC 20036 Telephone: (202) 861-3840</p>

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Kemps LLC	<p>Stephen M. Miller, Esquire  Douglas N. Candeub  Morris, James, Hitchens &amp; Williams LLP  222 Delaware Avenue  Wilmington, Delaware 19801  Telephone: (302) 888-6853</p>
Kraft Foods Global, Inc.	<p>Mary F. Caloway  Klett Rooney Lieber &amp; Schorling  1000 West Street  Suite 1410  Wilmington, Delaware 19801  Telephone: (302) 552-4200</p> <p>Daniel G. Hildebrand  Mayer, Brown, Rowe &amp; Maw LLP  71 South Wacker Drive  Chicago, IL 60606  (312) 701-7787</p>

<b>PARTY</b>	<b>ATTORNEYS</b>
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Post Confirmation Trust	<p>Kathy Patrick Gibbs &amp; Bruns, LLP 1100 Louisiana Street, Suite 5300 Houston, TX 77002 (713) 650-8805</p> <p>Laura Davis Jones Pachulski, Stang, Ziehl, Young, Jones &amp; Weintraub P.C. 919 North Market Street, 17<sup>th</sup> Floor Post Office Box 8705 Wilmington, DE 19899 (302) 778-6401</p>

Dated: October 31, 2005

COZEN O'CONNOR

/s/ Jeffrey R. Waxman

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*Attorneys for Food Marketing  
Group, Inc.*

## **EXHIBIT “A”**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	Case No. 03-10945 (MFW)
Fleming Companies, Inc., et al.,	)	(Jointly Administered)
	)	
Debtors.	)	
	)	
	)	Related Docket Nos.: 11889, 11824 & 11822
	)	

ORDER ON  
CROSS-MOTION OF THE POST-CONFIRMATION TRUST  
FOR DECLARATORY RELIEF

The Court has considered the briefs and arguments submitted by the Post Confirmation Trust (PCT) and by the Reclamation Creditors' Trust, concerning the ownership of claims and Causes of Action pending in the PCT's Cross-Complaint against James Green, Christopher Thorpe, John Kenneth Adams, Rosario Coniglio, Steven Schmidt, Bruce Keith Jensen, John D. Robinson, and Peter Frank (collectively, "the Vendor Officers"). Under the terms of the Fleming Plan of Reorganization, the Claims and Causes of action against the Vendor Officers are the property of the PCT.

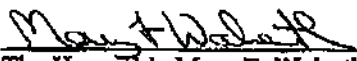
Accordingly, the Motion of the Reclamation Creditors' Trust to Enforce the Reorganization Plan and to Enjoin the Post-Confirmation Trust From Pursuing Claims is DENIED. The PCT's Cross-Motion for Declaratory Relief is GRANTED on all grounds stated therein, and the Court DECLARES that:

- Under Fleming's Plan of Reorganization, <sup>only</sup> ~~the claims~~ *which were preserved by the Plan* against the Vendor Officers, ~~and claims against any persons or entities~~ who are not Reclamation Creditors, are the property of the PCT;

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DT. FILED 10/20/05

2. No person shall, hereafter, assert or argue that the PCT does not own or have standing to pursue the claims it has filed in its pending Cross-Action in *In re Fleming Companies Securities Litig.*, C.A. No. 05-03-1530 (TJW) Case No. MDL-1530; and,
3. The Reclamation Creditors' Trust shall cease and desist from any further effort to interfere with the PCT's prosecution of the claims against the Vendor Officers.

SIGNED this 19<sup>th</sup> day of October, 2005.

  
The Honorable Mary F. Walrath  
United States Bankruptcy Court, Chief Judge



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	)	(Jointly Administered)
Debtors.	)	

**CERTIFICATION OF SERVICE OF NOTICE OF  
APPEAL OF FOOD MARKETING GROUP, INC.**

I, Jeffrey R. Waxman, hereby certify that I am not less than 18 years of age and further certify that on October 31, 2005, I caused to be served a true and correct copy of *Notice Of Appeal Of Food Marketing Group, Inc.* upon the parties identified on the service list attached hereto as Exhibit "A" via regular first class mail, postage pre-paid.

Under penalty of perjury, I declare that the foregoing is true and correct.

Dated: October 31, 2005

COZEN O'CONNOR

By: /s/ Jeffrey R. Waxman  
Jeffrey R. Waxman (No. 4159)  
1201 N. Market Street  
Suite 1400  
Wilmington, DE 19801  
Telephone: 302-295-2000

**EXHIBIT “A” - SERVICE LIST**

<b><u>PARTY</u></b>	<b><u>COUNSEL</u></b>
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Office of U.S. Trustee	Office of the U.S. Trustee 844 King Street, Suite 2207 Lock Box 35 Wilmington, DE 19801
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